



DAKOTA FAST FILE Terms and Agreements

The Subscriber and The Office of Secretary of State (SOS) wish to contract for the provision of services from SOS to Subscriber as per the Terms and Conditions below. SOS provides an Internet on-line access from personal computers, to the Uniform Commercial Code (UCC) mainframe database with related services. Subscriber wishes to use the services made available by SOS.

Terms and Conditions

1. This agreement sets forth the terms and conditions under which SOS will provide services to the subscriber.
2. SOS reserves the right to withdraw any service without consulting Subscriber prior to withdrawing such service and shall have no liability whatsoever to Subscriber in connection with deletion of any service.
3. Subscriber acknowledges that he/she has read the Agreement and agrees that it is the complete and exclusive statement between the parties, superseding all other communications, oral or written. This agreement and other notices provided to the Subscriber by SOS constitute the entire agreement between the parties. This agreement may be modified only by written amendment signed by the parties except as otherwise provided in this paragraph. In the event subscriber issues a purchase order or other instrument covering the services herein specified, it is understood and agreed that it is for Subscriber's internal purposes only and shall in no way modify, add to, or delete the terms and conditions in this Agreement.
4. Conditions of Use
 - A. Hours and Service: Service will be provided on a non-guaranteed bases six day per week (Monday through Saturday), from 7:00 AM until 11:59 PM. This will exclude time used for scheduled maintenance as designated by SOS in its sole discretion.
 - B. User ID and Passwords: SOS will issue to the Subscriber user ID and Passwords. Subscriber is responsible for preserving the secrecy of his/her user ID and password controlled by him/her. Subscriber is liable for any and all charges for services to his/ her ID/account passwords whether or not authorized by Subscriber.
 - C. Copyright and Ownership of Information: Subscriber agrees to comply with any copyright notices or other services, databases, or other information provided through SOS's services.
5. Payment
 - A. Payment by Subscriber: Subscriber will establish a Prepaid Account Deposit (PAD) account. A deposit of at least one hundred dollars (\$100) must be submitted when opening an account. The Subscriber need not establish a new PAD account if one is on file with SOS. Account balances must be maintained to guarantee your documents will be filed. Cost of documents filed is computer generated and automatically deducted from the Subscriber's PAD account. A balance of your account is provided with each receipt.
6. Limitation of Liability
 - A. The remedies set forth in this agreement are exclusive and in no event shall SOS, its administrators or its employees be liable for special, indirect, incidental, or consequential damages, including, but not limited to lost income or lost revenues, whether such damages arise out of breach of contract, negligence, strict liability, or any other theory of liability. Such damages shall in any event be limited to the charges paid for the previous year by Subscriber for the service in connection with which a claim of liability is asserted or imposed. Subscriber specifically understands and recognizes that the system by which these services are offered is new and may experience problems of various kinds resulting in an inability to provide services.
 - B. Subscriber agrees that SOS will not be liable for any claim or demand of any nature or kind whether asserted against SOS or against Subscriber by any third party, arising out of the services or materials provided for their use. Subscriber agrees to hold SOS harmless for claims of third parties arising out of the Subscriber's use of the services or materials provided pursuant to this Agreement.
 - C. SOS shall not be liable for or deemed to be in default for any delays or failure in performance or interruption of service resulting directly or indirectly from any cause or circumstance beyond its reasonable control, including problems with or delays caused by its database or other providers.
 - D. No action or suit, regardless of form, other than an action for payments due SOS, arising out of the transactions pursuant to this Agreement may be brought by either party more than one year after the cause of the action accrues.

- E. The Office of Secretary of State shall at no time be liable for any errors or omissions from information available on the Dakota Fast File UCC or any other electronic program operated by SOS.

7. Warranty

- A. SOS makes no warranties express or implied, including, but not limited to the implied warranties of merchantability and fitness for any particular purpose. While SOS and its providers strive for accuracy and completeness of data and services furnished pursuant to this Agreement, no warranty or representation as to accuracy is made or implied.
- B. Subscribers warrant that it is aware of and will comply with all applicable federal, state, or other laws with regard to access to or use of any and all information, databases, programs, or other products to which access is provided by or through SOS.

8. Limitations

- A. Under no circumstances may Subscriber, or any other party acting by or through Subscriber or using Subscriber's user ID or password, use data received from or through SOS in any way except in full and complete compliance with all applicable laws.

9. Tradesman/Trademark

- A. Subscriber agrees that he/she will not use the trademark "*Dakota Fast File*" unless specifically authorized to do so in writing by the Secretary of State.

10. General

- A. Waiver: The waiver, modification, or failure to insist by SOS on any of these terms or conditions, shall not void, waive, or modify any of the other terms or conditions nor be construed as a waiver or relinquishment of SOS's right to performance of any such term or terms.
- B. Severability: If any provision or part of the Agreement shall be declared illegal, void, or unenforceable, the remaining provisions shall continue in full force and effect.
- C. Governing Law: This agreement shall be governed by and construed according to the laws of South Dakota, and all actions hereunder shall be brought in a federal or state court of competent jurisdiction in South Dakota and in no other jurisdiction.
- D. Assignment: This Agreement is not assignable or transferable by Subscriber and any attempted assignment or transfer shall be null and void and of no force or effect.

Subscription Form

The following form must be submitted and approved by the Secretary of State before the institution uses *Dakota Fast File*. The annual fee is \$120 for each system – Tickler, Search and File – or \$360 for all three systems. The fee must be included unless you are deducting it from your existent pad account. If you do not have a pad account, it is necessary for you to establish one and to deposit a sufficient sum for payment of the fee and the filing of future documents. If you have any questions, please contact the UCC Division at the address below.

I have read and agree to the terms and conditions of the South Dakota Secretary of State Dakota Fast File and the information describing the limitation for use of information accessed through Dakota Fast File.

Pad Account Number: _____

Name of Subscriber: _____

Signature of Authorized Representative: _____

Name and Title of Authorized Representative: _____

Full Mailing Address of Subscriber: _____

(Address, City, State, Zip)

Phone Number: _____ Email: _____

Date: _____

Please check systems to which you are subscribing:

☐ Search (\$120 annually) ☐ Tickler (\$120 annually) ☐ File UCC Documents (\$120 annually)

Please enclose check and deposit for PAD Account unless debiting from your existent PAD Account.

Return to:

UCC Division

Office of Secretary of State

500 E Capitol Avenue, Pierre SD 57501

Phone: 605-773-5006 Fax: 605-773-4550

Email: dakotafastfile@state.sd.us Administration Email: admin.dakotafastfile@state.sd.us

Dakota Fast File Home Page: www.state.sd.us/sos/ucc.htm

For Office Use Only:

Password _____ User ID: _____

Expiration Date: _____